(43)

HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR (C.G.)

SINGLE BENCH: HON'BLE SHRI L.C. BHADOO, J

WRIT PETITION NO.2439 OF 2003

O R D E R

POST IT FOR: 27 /08/2003

Sd/-
L.C. Bhadoo
Judge

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SINGLE BENCH: HON'BLE SHRI L.C. BHADOO, J

WRIT PETITION NO.2439 OF 2003

Manoj Kumar Mukherjee,
Son of Fanindra Nath Mukherjee, aged about 58 years,
Resident of Tahsilpara, Kondagaon, District Bastar (CG)

VERSUS

Registrar, Co-operative Societies,
Chhattisgarh, Raipur (CG) and three others.

Present: Shri Ashish Shrivastava, counsel for the petitioner.

O R D E R
(Passed on 27th of August 2003)

By this writ petition under Articles 226/227 of the Constitution of India the petitioner has challenged the order dated 11/06/2003 (Annexure-P/4) passed by respondent No.1 / Registrar, Co-operative Societies, Chhattisgarh, Raipur in Appeal No.78-64(J)/2003.

(2) According to the petitioner, by the impugned order (Annexure-P/4) respondent No.1 Registrar, Co-operative Societies, Chhattisgarh, Raipur has directed the petitioner to repay the loan amount to respondent No.4/District Co-operative Central Bank Limited in a lump. As such, the impugned order of respondent No.4 is not only arbitrary, illegal, unsustainable and irrational but also violative of Articles 14, 16 and 21 of the Constitution of India.

(3) The petitioner took a loan of Rs.50,000/- from respondent No.4 in the year 1983 in accordance with the Banking Rules and Regulations, but on account of his removal from service in a departmental enquiry in the year 1987. The petitioner is out of employment since last sixteen years and he is hand to mouth and also suffering from acute financial crises. Therefore, he is not in a position to repay the loan amount taken from respondent No.4. A writ petition is pending in this Court regarding the illegal removal of the petitioner. The respondent/Bank filed a proceeding before respondent No.2 /Dy. Registrar, Co-operative Societies, Bastar Division, Jagdalpur for repayment of the loan amount under Section 64 of the Co-operative Societies Act, 1960 (for short the *Act*). Respondent No.2 vide order dated 30/03/202 directed the petitioner to pay Rs.500/- per month towards repayment of the loan amount to the respondent/Bank. Feeling aggrieved by the aforesaid order, the respondent/Bank preferred an appeal under Section 78(1) of the Act before respondent no.1 who by the impugned order dated 11/06/2003 in a most illegal and arbitrary manner without considering the precarious condition of the petitioner passed the order directing the petitioner to repay the whole amount in a lump.

(3) I have heard learned counsel appearing for the petitioner.

(4) It is not in dispute that the petitioner had taken the loan of Rs.50,000/- from the respondent/Bank in the year 1983 and on the date when the Deputy Registrar respondent No.2 passed the order directing the petitioner to pay the outstanding amount of loan in installments, the outstanding amount of loan was Rs.47,368.00 against the principal amount and Rs.54,824.87 as interest up to 31/03/1999 thereby a total amount of Rs.1,02,202.87 was outstanding against the petitioner. After taking the loan only about Rs.3,000/- has been repaid by the petitioner against the principal amount from the year 1983. On account of the outstanding amount against the petitioner the

respondent/Bank moved an application before respondent No.2 who by his order dated 30/03/2002 directed the petitioner to pay Rs.500/- per month and in case he fails to pay the three installments then the respondent/Bank would be at liberty to auction the mortgaged property for the realization of the entire loan amount and 7% interest was allowed on the aforesaid amount.

(5) Learned counsel appearing for the petitioner submitted that since the petitioner is out of employment from the year 1987he was not able to repay the amount and even today he is not in a position to repay the loan amount because he is out of employment. Therefore, the order of respondent No.1 is arbitrary and unreasonable.

(6) The petitioner had taken the loan of Rs.50,000/- in the year 1983 and till today he has repaid only amount of Rs.3,000/- out of the loan amount. Almost 20 years has elapsed after taking loan. It is also not in dispute that the petitioner has not paid the loan in accordance with the terms. If the petitioner is out of employment and that too on account of his misconduct some departmental enquiry was initiated against him and he was removed from the service and at the relevant time he was working as Bank Manager. Therefore, it is difficult to say that he was not able to repay the loan amount. Moreover, he had taken the loan amount for construction of the house and the petitioner has never repaid the loan as per the agreement. If the petitioner has been removed from the service in a departmental enquiry on account of his misconduct he cannot blame anyone for that. He took the loan amount from the respondent/Bank for construction of the house then he was required to repay the loan amount as per the agreement which he failed to repay the same and moreover 20 years has elapsed after taking loan. Therefore, the petitioner is not entitled for any relief. The impugned order of the Registrar/respondent No.1 cannot be termed as arbitrary or

unreasonable. I do not find any substance in this writ petition. The said petition is, therefore, liable to be dismissed and it is dismissed.

(7) In the result, the petition is dismissed.

Sd/-
L.C. Bhadoo
Judge